

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9713 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

PATEL BHIKHABHAI BAVARBHAI

Versus

COMMANDANT

Appearance:

MR IS SUPEHIA for Petitioners

Mr. D.A.Bambhanian, learned Addl.G. P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/12/96

ORAL JUDGMENT :

The petitioners are Head Constables/Constables in the Police Department and through this Special Civil Application they have challenged the order dated 28.5.96 whereby certain amounts, which were paid to them as higher grade, were sought to be recovered. Mr. Supehia has challenged the order on grounds more than one, but it is submitted by both the sides that this Special Civil

Application can be disposed of on the short ground that the impugned order, so as to make recovery from the petitioners, has been passed in violation of principles of natural justice i.e. without giving any prior show cause notice to them.

Since the fact is not disputed that the impugned order was passed without any notice to the petitioners, the order dated 28.5.96 deserves to be quashed and set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned order dated 28.5.96 Annexure 'A' passed by the Commander, State Reserve Police Force, Group 9, Baroda is hereby quashed and set aside. It will be open for the respondents to pass orders afresh in accordance with law and till any further orders to the prejudice of the petitioners are not passed, no recovery shall be effected. Rule is made absolute accordingly with no order as to costs.